IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 9TH FEBRUARY 2007 / 20TH MAGHA 1928

WP(C).No. 1305 of 2007(S)

(O.P.(DIVORCE)No.775/2003 BEFORE THE FAMILY COURT, THIRUVALLA)

PETITIONER:

P.J. THOMAS,
ILANJIMOOTTIL HOUSE, KAVUMBHAGOM, THIRUVALLA.

BY ADV. SRI.MVS.NAMBOOTHIRY

RESPONDENTS:
---

1. THE KERALA STATE HUMAN RIGHTS COMMISSION REPRESENTED BY THE REGISTRAR, HUMAN RIGHTS COMMISSION OFFICE, M.P.APPAN ROAD, VAZHUTHAKKAD, TRIVANDRUM.

2. ALICE THOMAS, RESIDING AT ILANJIMOTTIL HOUSE, KAVUMBHAGOM, THIRUVALLA.

3. ROBIN THOMAS, RESIDING AT -DO- -DO-.

4. ROSHIN THOMAS (MINOR), RESIDING AT -DO -DO-. REPRESENTED BY MOTHER AND GUARDIAN THE 2ND RESPONDENT.

R1 BY ADV. SRI.K.ANAND

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENEDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.31427/05 DTD. 11/11/2005.

EXT.P2 TRUE COPY OF THE COMPLAINT FILED BY THE 2ND RESPONDENT BEFORE THE HUMAN RIGHTS COMMISSION DTD. 28/9/2006.

EXT.P3 TRUE COPY OF THE SUMMONS DTD. 4/11/2006.

EXT.P4 TURE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE FAMILY COURT.

P.R.RAMAN & S.SIRI JAGAN, JJ.

W.P.(C).NO.1305 OF 2007

Dated this the 9th day of February, 2007

JUDGMENT

Raman, J.

Petitioner and 2nd respondent are husband and wife and respondents 3 and 4 are their children. There are disputes between the parties and a petition is pending before the family court as M.C.No.242/2003 claiming maintenance from the petitioner whereas the petitioner filed O.P.(Divorce) No.775/2003 seeking divorce from the 2nd respondent. In that proceeding it is stated that an offer was made by the petitioner to provide 5 cents of land and a building worth Rs.3.5 lakhs and a fixed deposit of Rs.3 lakhs in the name of respondents 3 and 4. He also offered an amount of

Rs.50,000/- to the 2nd respondent. Though that offer was rejected, this Court in W.P.(C).No.31427/2005 directed the Family Court, Thiruvalla to consider the offer as per the judgment rendered therein, a copy of which is produced as Ext.P1. The offer was subsequently raised to Rs.7,00,000/-. The matter has not reached any finality as of now. In the meantime, the 2nd respondent filed a complaint, Ext.P2 before the Kerala State Human Rights Commission and Ext.P3 summons was issued. According to the petitioner, because of the pendency of the matter before the Family Court, Thiruvalla, which has got exclusive jurisdiction the same issue cannot be

adjudicated on a complaint made to the Human Rights Commission and thus the Human Rights Commission lacks jurisdiction. The question as to whether the Human Rights Commission could proceed with the case, if the issue involved is the same as is already been adjudicated upon by the Family Court, is a matter which the petitioner is entitled to raise before the Commission. This being only at the stage of notice, we do not think that it will be appropriate to entertain the writ petition at this stage. However, it is open to the petitioner herein to raise his contention regarding the jurisdiction before the Commission, and if such a contention is raised, then the Commission

shall decide the jurisdictional question as a preliminary point.

With the above observation this writ petition is closed at this stage.

P.R.RAMAN,
Judge.

S.SIRI JAGAN ,
Judge.

kcv.